

FILED

MAR 03 2010

U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DIVISION

Elvin L. Shaw

(Enter your full name)

Plaintiff(s)

v.

Eric K Shinseki
Secretary of Veterans Affairs

(Enter full name of each Defendant)

Defendant(s)

CASE NUMBER:

(To be supplied by Intake Deputy)

W10CA052

COMPLAINT

1. First Paragraph (Name and Address of Plaintiff)
2. Second Paragraph (Name and Address(es) of Defendant(s))
3. Third Paragraph (Jurisdiction Plea).
4. Fourth Paragraph
5. Fifth Paragraph ...

The final paragraph should contain a statement of the relief you are seeking. This paragraph should not be numbered.

Elvin L. Shaw

Signature

Name (Typed or Printed) Elvin L. Shaw

Address P.O. Box 301 Marlin Texas 76661

Telephone Number 254 379 2248

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DIVISION**

Elvin L. Shaw

(Name of plaintiff or plaintiffs)

Civil Action Number:

v.

(Case Number to be supplied
by the Intake Clerk)

Eric K. Shinseki

Secretary of Veterans Affairs

(Name of defendant or defendants)

COMPLAINT

1. This action is brought by Elvin L. Shaw, Plaintiff, pursuant to the following selected jurisdiction:

(Please select the applicable jurisdiction)

- ☒ Title VII of the Civil Rights Act of 1964 (42 USC §§ 2000e et seq.) Employment Discrimination on the basis of race, color, sex (gender, pregnancy and sexual harassment), religion or national origin.
- ☐ The Age Discrimination in Employment Act (29 USC §§ 621 et seq.) (ADEA).
- ☐ The Americans With Disabilities Act (42 USC §§ 12102 et seq.) (ADA).
- ☐ The Equal Pay Act (29 USC § 206(d)) (EPA).
- ☐ The Rehabilitation Act of 1973 (29 USC § 791 et seq.) (Applicable to federal employees only).

2. Defendant Eric K. Shinseki (Defendant's name) lives at, or its business is located at _____ (street address), _____ (city), _____ (state), _____ (zip).

- 3a. Plaintiff sought employment from the defendant or was employed by the defendant at Central Texas Veterans Healthcare System (street address), 4800 Memorial Drive (city), Waco (city), Texas (state), 76711 (zip).

- 3b. At all relevant times of claim of discrimination, Defendant employed _____ (#) employees. If defendant is a union, at all relevant times of claim of discrimination, Defendant had _____ (#) members.

4. Defendant discriminated against plaintiff in the manner indicated in paragraph 8 of this complaint on or about April (month) 18 (day) 2008 (year). If incidents of discrimination occurred more than one day, please indicate the beginning and ending dates of such acts: _____

5. Plaintiff filed charges against the defendant with the Equal Employment Opportunity Commission (E.E.O.C.) charging defendant with the acts of discrimination indicated in paragraph 7 of this complaint on or about June (month) 10 (day) 2008 (year). (Not applicable to federal civil service employees).

- 6a. The E.E.O.C. issued a **Notice of Right to Sue** which was received by plaintiff on December (month) 03 (day) 2009 (year). (Not applicable to ADEA and EPA claims or federal civil service employees).

VERY IMPORTANT NOTE:

PLEASE ATTACH A COPY OF YOUR NOTICE OF RIGHT TO SUE AND THE ENVELOPE IN WHICH IT WAS RECEIVED TO THIS COMPLAINT.

- 6b. Please indicate below if the E.E.O.C issued a **Determination** in your case:

☒ Yes
☐ No

VERY IMPORTANT NOTE:

IF YOU CHECKED "YES", PLEASE ATTACH A COPY OF THE E.E.O.C.'S DETERMINATION TO THIS COMPLAINT

7. Because of plaintiff's:

(Please select the applicable allegation(s))

- ☐ Race (If applicable, state race) African American
- ☐ Color (If applicable, state color) _____
- ☐ Sex (gender, pregnancy or sexual harassment) (If applicable, state sex and claim) _____
- ☐ Religion (If applicable, state religion) _____
- ☐ National Origin (If applicable, state national origin) _____
- ☐ Age (If applicable, state date of birth) _____
- ☐ Disability (If applicable, state disability) _____

☐ Prior complaint of discrimination or opposition to acts of discrimination.
(Retaliation) (If applicable, explain events of retaliation) _____

The defendant: (please select all that apply)

- ☐ failed to employ plaintiff.
- ☐ terminated plaintiff's employment.
- ☒ failed to promote plaintiff.
- ☐ harassed plaintiff.
- ☐ other (specify) _____

8a. State **specifically** the circumstances under which defendant, its agent, or employees discriminated against plaintiff **PERSONALLY**:

VERY IMPORTANT NOTE: INCLUDE SPECIFIC DATES, SPECIFIC EVENTS, AND ANY SPECIFIC COMMENTS MADE BY DEFENDANT PERTAINING TO THE DISCRIMINATION CLAIM ALLEGED ABOVE.

On 02/06/2008 I applied for the job of industrial equipment mechanic submitting all required documents. On 04/18/2008 I was discriminated against based on my race; I am well qualified for the job. The disparate treatment evident in the conspiracy created to avoid following the current employee applicant procedures for promotion or reassignment of current employee applicants

8b. List any **witnesses** who would testify for plaintiff to support plaintiff's allegations and the substance of their testimony:

Timothy Ayers can testify to his coworkers (named below) stating they were asked if they wanted jobs from same working in the personnel department prior to closing of jobs they received
Ruth Lee can testify to personally being asked if she wanted a specific job or position.
Antionette Peterson can testify to personally being asked if she wanted a specific job or position.
Tammy Branden will testify SME Jody Kilpatrick told her new guy has back problem, was hired because his boss is new guy's father-in-law best friend

8c. List any **documentation** that would support plaintiff's allegations and explain what the documents will prove:

Transcript of proceedings, plaintiff's pre-hearing report and the investigative file will show the conflicting testimonies between the witnesses and the inconsistencies in the stories of the defendants witnesses providing the groundwork for the conspiracy and discrimination.

9. The above acts or omissions set forth in paragraphs 7 and 8 are:

- ☒ still being committed by defendant.
☐ no longer being committed by defendant.

10. Plaintiff should attach to this complaint a copy of the charge filed with the Equal Employment Opportunity Commission. This charge is submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, plaintiff prays that the Court grant the following relief to the plaintiff:

- ☐ Defendant be directed to employ plaintiff.
☐ Defendant be directed to re-employ plaintiff.
☐ Defendant be directed to promote plaintiff.

☐ Defendant be directed to pay \$716,544, to cease and desist all discrimination and retaliation. I am only asking for the amount of money I would have made in the position working until I retired.

_____, and that the Court grant such other relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

3-2-2010

Date

Elvis L. Shaw

Signature of Plaintiff

P.O. Box 301

Address of Plaintiff

Marlin

City

Texas

State

76661

Zip Code

254 379 2248

Telephone Number(s)